

REMARKS

Claims 1, 2, 9, 12 through 14, and 18 through 20 have been amended. Claims 1 through 20 remain in the application. A marked up copy of the amended claims is attached hereto as Appendix A.

The Examiner has required the Applicant to update the file history of the application.

Accordingly, the specification has been amended to update the file history of the application. It is respectfully submitted that the specification is acceptable.

Claims 2, 9, 13, 14, 18, and 19 were considered allowable if rewritten to correct any objections; overcome any applicable rejections, under 35 U.S.C. § 112; and to include all of the limitations of the base claim and any intervening claims.

Accordingly, claims 2, 9, 13, 18, and 19 have been amended and rewritten in independent form to include the limitations of the base claim and any necessary supporting intervening claims. It is respectfully submitted that claims 2, 9, 13, 18, and 19 are in a condition for allowance, which allowance is solicited.

Claims 1, 4, 10, 12, and 20 were rejected under 35 U.S.C. § 103 as being unpatentable over Strader (U.S. Patent No. 4,196,918) in view of Biederman (U.S. Patent No. 6,149,181). Applicant respectfully traverses this rejection.

U.S. Patent No. 4,196,918 to Strader discloses a utility trailer frame assembly. Compression members or pads 70, 72 of plastic such as nylon or other suitable material are affixed to opposite external sides of a tongue projection 28 and cooperate with stud mounting plates 34,36 rigidly to clamp therebetween the inboard ends 46',48' of leaf springs 46,48 in the extended position of a draw tongue 22 when the leaf springs are received over the mounting studs. Strader does not disclose a main body adapted to be disposed over a hitch

tube and adapted to allow insertion of a hitch into the hitch tube, an insulating member adapted to be disposed over the hitch tube and between the main body and the hitch tube, and a cover plate hingedly connected to the main body and being movable between a closed position and an open position.

U.S. Patent No. 6,149,181 to Biederman discloses a self-storing hitch. A plate 90, advantageously folds at hinges 92 and 94 to close a storage chamber when a draw bar (not seen) is in a stored position. Biederman does not disclose a main body adapted to be disposed over a hitch tube and adapted to allow insertion of a hitch into the hitch tube and an insulating member adapted to be disposed over the hitch tube and between the main body and the hitch tube.

In contradistinction, claim 1, as amended, clarifies the invention claimed as a trailer hitch cover assembly including a main body adapted to be disposed over a hitch tube and adapted to allow insertion of a hitch into the hitch tube. The trailer hitch cover assembly also includes an insulating member adapted to be disposed over the hitch tube and between the main body and the hitch tube. The trailer hitch cover assembly further includes a cover plate hingedly connected to the main body and being movable between a closed position and an open position. Claims 12 and 20 have been amended similar to claim 1 and include other features of the present invention.

The United States Court of Appeals for the Federal Circuit (CAFC) has stated in determining the propriety of a rejection under 35 U.S.C. § 103, it is well settled that the obviousness of an invention cannot be established by combining the teachings of the prior art absent some teaching, suggestion or incentive supporting the combination. See In re Fine, 837 F.2d 1071, 5 U.S.P.Q.2d 1596 (Fed. Cir. 1988); Ashland Oil, Inc. v. Delta Resins & Refractories, Inc., 776 F.2d 281, 227 U.S.P.Q. 657 (Fed. Cir. 1985); ACS Hospital Systems, Inc. v. Montefiore

Hospital, 732 F.2d 1572, 221 U.S.P.Q. 929 (Fed. Cir. 1984). The law followed by our court of review and the Board of Patent Appeals and Interferences is that “[a] prima facie case of obviousness is established when the teachings from the prior art itself would appear to have suggested the claimed subject matter to a person of ordinary skill in the art.” In re Rinehart, 531 F.2d 1048, 1051, 189 U.S.P.Q. 143, 147 (C.C.P.A. 1976). See also In re Lalu, 747 F.2d 703, 705, 223 U.S.P.Q. 1257, 1258 (Fed. Cir. 1984) (“In determining whether a case of prima facie obviousness exists, it is necessary to ascertain whether the prior art teachings would appear to be sufficient to one of ordinary skill in the art to suggest making the claimed substitution or other modification.”)

None of the references cited, either alone or in combination with each other, teach or suggest the claimed invention of claims 1, 12, and 20. Specifically, Strader ‘918 merely discloses a utility trailer frame assembly having compression pads of plastic affixed to opposite external sides of a tongue projection. Strader ‘918 lacks a main body adapted to be disposed over a hitch tube and adapted to allow insertion of a hitch into the hitch tube, an insulating member adapted to be disposed over the hitch tube and between the main body and the hitch tube, and a cover plate hingedly connected to the main body and being movable between a closed position and an open position. Biederman ‘181 merely discloses a self-storing hitch in which a plate folds at hinges to close a storage chamber when a draw bar is in a stored position. Biederman ‘181 lacks a main body adapted to be disposed over a hitch tube and adapted to allow insertion of a hitch into the hitch tube and an insulating member adapted to be disposed over the hitch tube and between the main body and the hitch tube. The references, if combinable, fail to teach or suggest the combination of a trailer hitch cover assembly including a main body adapted to be disposed over a hitch tube and adapted to allow insertion of a hitch into the hitch tube, an insulating member adapted to be disposed over the hitch tube and between the main body and the hitch

tube, and a cover plate hingedly connected to the main body and being movable between a closed position and an open position as claimed by Applicant. Therefore, it is respectfully submitted that claims 1, 12, and 20 and the claims dependent therefrom are allowable over the rejection under 35 U.S.C. § 103.

Claims 3 and 8 were rejected under 35 U.S.C. § 103 as being unpatentable over Strader '918 in view of Biederman '181 and further in view of Fortier (U.S. Patent No. 6,209,898). Applicant respectfully traverses this rejection for the same reasons given above to claim 1.

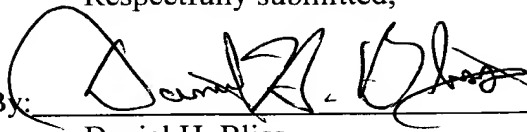
Claims 5 through 7 and 15 through 17 were rejected under 35 U.S.C. § 103 as being unpatentable over Strader '918 in view of Biederman '181. Applicant respectfully traverses this rejection for the same reasons given above to claims 1 and 12.

Claim 11 was rejected under 35 U.S.C. § 103 as being unpatentable over Strader '918 in view of Biederman '181. Applicant respectfully traverses this rejection for the same reasons given above to claim 1.

Obviousness under § 103 is a legal conclusion based on factual evidence (In re Fine, 837 F.2d 1071, 1073, 5 U.S.P.Q.2d 1596, 1598 (Fed. Cir. 1988), and the subjective opinion of the Examiner as to what is or is not obvious, without evidence in support thereof, does not suffice. Since the Examiner has not provided a sufficient factual basis, which is supportive of his/her position (see In re Warner, 379 F.2d 1011, 1017, 154 U.S.P.Q. 173, 178 (C.C.P.A. 1967), cert. denied, 389 U.S. 1057 (1968)), the rejections of claims 1, 3 through 8, 10, 11, 15 through 17, and 20 are improper. Therefore, it is respectfully submitted that claims 1 through 20 are allowable over the rejections under 35 U.S.C. § 103.

Based on the above, it is respectfully submitted that the claims are in a condition for allowance, which allowance is solicited.

Respectfully submitted,

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Date: February 11, 2003

Attorney Docket No.: 0290.00004

APPENDIX A**VERSION OF THE CLAIMS WITH MARKINGS TO SHOW THE CHANGES**

Please amend claims 1, 2, 9, 12 through 14, and 18 through 20 as follows:

1. (AMENDED) A trailer hitch cover assembly [for a hitch receiver]
comprising:

a main body [operatively connected to] adapted to be disposed over a hitch tube
and adapted to allow insertion of a hitch into the hitch tube;

an insulating member adapted to be disposed [within] over the hitch tube and
between said main body and the hitch tube; and

a cover plate hingedly connected to said main body and being movable between a
closed position and an open position.

2. (AMENDED) A trailer hitch cover assembly [as set forth in claim 1]
comprising:

a main body operatively connected to a hitch tube and adapted to allow insertion
of a hitch into the hitch tube;

a cover plate hingedly connected to said main body and being movable between a
closed position and an open position; and

wherein said main body includes at least one deflectable tab to retain said main
body on the hitch tube.

9. (AMENDED) A trailer hitch cover assembly [as set forth in claim 8]

comprising:

a main body operatively connected to a hitch tube and adapted to allow insertion of a hitch into the hitch tube;

an insulating member disposed between said main body and the hitch tube;

a cover plate hingedly connected to said main body and being movable between a closed position and an open position;

wherein said main body includes a plurality of apertures extending therethrough;

and

wherein said insulating member includes a plurality of pins extending outwardly and through said apertures in said main body to connect said insulating member to said main body.

12. (AMENDED) A trailer hitch cover assembly for a motor vehicle

comprising:

a main body [for connection to] adapted to be disposed over a hitch tube and having a front face with an opening adapted to allow passage of a hitch into an open end of the hitch tube;

an insulating member disposed within and operatively connected to said main body; and

a movable cover plate hingedly connected to said main body to be moved between a first position and a second position.

13. (AMENDED) A trailer hitch cover assembly [as set forth in claim 12]

comprising:

a main body for connection to a hitch tube and having a front face with an opening

adapted to allow passage of a hitch into an open end of the hitch tube;

an insulating member disposed within and operatively connected to said main

body;

a movable cover plate hingedly connected to said main body to be moved between

a first position and a second position; and

wherein said main body includes opposed side walls extending from said front face with at least one deflectable tab to retain said main body on the hitch tube.

14. (AMENDED) A trailer hitch cover assembly as set forth in claim [13] 12

wherein each of said sidewalls include at least one aperture extending therethrough adapted to allow passage of a lock pin.

18. (AMENDED) A trailer hitch cover assembly [as set forth in claim 13]

comprising:

a main body for connection to a hitch tube and having a front face with an opening

adapted to allow passage of a hitch into an open end of the hitch tube;

a movable cover plate hingedly connected to said main body to be moved between

a first position and a second position;

wherein said main body includes a plurality of apertures extending through said sidewalls.

19. (AMENDED) A trailer hitch cover assembly [as set forth in claim 18]

comprising:

a main body for connection to a hitch tube and having a front face with an opening adapted to allow passage of a hitch into an open end of the hitch tube;

an insulating member disposed within and operatively connected to said main body;

a movable cover plate hingedly connected to said main body to be moved between a first position and a second position;

wherein said main body includes a plurality of apertures extending through said sidewalls; and

wherein said insulating member includes a plurality of pins extending outwardly and through said apertures to connect said insulating member to said main body.

20. (AMENDED) A [trailer] hitch cover assembly [for a motor vehicle]

comprising:

a hitch tube having a first opening adapted to receive a hitch;

a main body [connected to] disposed over said hitch tube and having a front face with a second opening to allow passage of the hitch into said first opening and in said hitch tube;

an insulating member disposed within and operatively connected to said main body; and

a movable cover plate hingedly connected to said main body to be moved between a first position to close said first opening and a second position to open said first opening.